IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 407 of 1995

in

SPECIAL CIVIL APPLICATION No 5082 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJKOT TEXTILE MILLS

Versus

MANJI MEGHABHAI

Appearance:

MR BR GUPTA for Appellant

MR SANJAY R GUPTA for Appellant

NOTICE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and

HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 28/07/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

The respondent workman had approached the Labour Court by way of Recovery Application filed under Section 33(c)(2) wherein the appellant had made an application to stay the recovery proceedings which was rejected. Hence, the Special Civil Application before this court which was rejected on 28th June, 1995 by the learned Single Judge. Hence, this appeal.

2. It is true that the petition was labelled as a petition under Article 226 of the Constitution but, strictly speaking, such a petition against the interlocutory order passed by the Labour Court would be strictly under Article 227 of the Constitution, therefore, no Letters Patent Appeal would lie. Even if the appeal was maintainable, then on merits also, we are of the considered opinion that no interference is called for with the order passed by the learned Single Judge dismissing the petition of the appellant - petitioner on the ground that it was filed slightly at a premature stage. It appears from the order of the learned Single Judge that so far the claim of the respondent workman was not determined by the Labour Court. In that view of the matter, we are of the considered opinion that the petition was at a premature stage. It would always be open to the appellant - petitioner to raise all the contentions which have been raised in their main writ petition as well as in this appeal before the Labour Court, as and when the Labour Court determines the claim of the respondent workman. With these observations, this appeal is dismissed with no order as to costs. Interim relief granted earlier on Civil Application stands vacated.

(B.J. Shethna, J.) (M.C. Patel, J.)

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